

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Allan R. Griebenow
Serial No. 09/469,644
Filing Date: December 22, 1999
Group Art Unit: 2621
Confirmation No.: 5227
Examiner: Gims S. Philippe
Title: Method and System for Providing Integrated Remote
Monitoring Services

Mail Stop - AF
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Dear Sir:

PRE-APPEAL BRIEF REQUEST FOR REVIEW

The following Pre-Appeal Brief Request for Review ("Request") is being filed in accordance with the provisions set forth in the Official Gazette Notice of July 12, 2005 ("OG Notice"). Pursuant to the OG Notice, this Request is being filed concurrently with a Notice of Appeal. The Applicant respectfully requests reconsideration of the Application in light of the remarks set forth below.

REMARKS

In an Office Action dated April 4, 2006, Claims 1-7 and 13-23 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,629,981 issued to Nerlikar (“*Nerlikar*”) in view of U.S. Patent No. 6,271,752 issued to Vaios (“*Vaios*”). Furthermore, Claims 8-11 and 24 are rejected under 35 U.S.C. § 103(a) as being unpatentable over *Nerlikar* in view of Vaios and further in view of U.S. Patent No. 6,028,626 issued to Aviv (“*Aviv*”). Applicant contends that the rejections of Claims 1-11 and 13-24 on prior art grounds contain clear legal and factual deficiencies, as described below. Applicant requests a finding that these rejections are improper and allowance of these claims.

Applicant first notes that this is the second Pre-Appeal Request for Review that Applicant has filed. The first such request resulted in the re-opening of prosecution and a new rejection of the claims. However, that new rejection uses the same art previously cited by the Examiner, just in a different way. As discussed by Applicant below, as with the previous Office Actions in this application, the present Office Action fails to show how the cited prior art provides a disclosure of certain limitations of the claims and even fails to address entirely several claims of the patent (including two independent claims, Claims 15 and 20). This failure to address claims is continued from previous Office Actions issued in this application, despite Applicant’s repeated requests that the Examiner address each claim of the application (and certainly each independent claim).

With respect to Claim 1, a *prima facie* case of obviousness cannot be maintained because, even assuming for the sake of argument that the teachings of *Nerlikar* and *Vaios* can be properly combined, the references do not teach all the limitations of Claim 1. For example, the Office Action asserts that *Nerlikar* discloses “receiving and storing radio frequency identification (RFID) data from an RFID system at a remote facility of a subscriber” and “receiving and storing video data from a video system at the facility.” First, nothing in *Nerlikar* discloses receiving anything from a remote facility of a subscriber. There is no mention of a remote facility or subscribers to the system of *Nerlikar*. Furthermore, *Nerlikar* does not disclose receiving and storing of video data from a video system (much less

that the video data is received and stored at a remote location of a subscriber). The passage cited by the Examiner only indicates that a “terminal device” may be video hardware or a VCR. However, the “terminal device” of *Nerlikar* (which can be virtually any type of device) is the device to which access by a user is controlled using the system of *Nerlikar* (using RFID information associated with the user). *See Column 6, lines 9-19*. There is absolutely no disclosure that such a device either sends or receives video data as recited in Claim 1. Furthermore, there is no disclosure of “providing the subscriber with access to the stored RFID and video data.” The passages of *Nerlikar* cited by the Examiner disclose that a user is given access to *secure documents* at the terminal device based on the RFID information associated with the user. These “secure documents” are not RFID or video data received and stored at a remote facility of a subscriber, as required by the claims.

Furthermore, the Examiner attempts to combine *Vaios* with *Nerlikar* to provide a teaching of “providing the subscriber with access to and control of a video camera in the video system at the facility.” However, there is simply no motivation to use a user-controlled video camera in the system of *Nerlikar*. In fact, *Nerlikar* teaches away from the use of video surveillance in its system due to the fact that the purpose of the *Nerlikar* system is to eliminate any manual intervention (such a monitoring of a video feed or controlling a video camera) in the document access process, which is why it proposes the use of RFID devices associated with the users wanting access to documents. Thus, the references cannot be properly combined as suggested by the Examiner.

For at least these reasons, Applicant respectfully submits that the limitations of Claim 1 are not taught by and not made obvious in light of the proposed *Nerlikar-Vaios* combination. Therefore, Applicant respectfully requests allowance of Claim 1, as well as the Claims 2-14, which depend from Claim 1. Applicant believes that these dependent claims also recite limitations not taught by the cited references, but these dependent claims are at least allowable due to their dependence on Claim 1. Furthermore, Applicant notes that the Examiner has clearly failed to even address the specific limitations of dependent Claims 6, 7 or 14, which are certainly not described in the cited references.

Furthermore, in addition to being allowable due to its dependence on Claim 1, Claim 8 also recites additional limitations not disclosed in *Nerlikar*, *Vaios* or *Aviv*. For example, Claim 8 recites “initiating a polling event in response to a specified event, the polling event operable to use the RFID system at the facility to poll an area of the facility to determine an inventory of tagged items within the area.” The Examiner states that this limitation is disclosed by a combination of Column 3, lines 24-41 and Column 4, lines 47-61 of *Vaios* and Column 9, lines 25-37 and 60-64 and Column 8, lines 48-67 of *Aviv*. Applicant fails to see how any of these passages relate at all to the recited polling event, much less that the polling event determines an inventory of tagged items within the area. The Examiner makes no attempt to explain how this is disclosed. For at least this additional reason, Applicant respectfully requests reconsideration and allowance of Claim 8, as well as the Claims 9-11, which depend from Claim 8. In addition, Applicant notes that the Examiner has failed to even address the specific limitations of dependent Claim 11, which are certainly not described in the cited references.

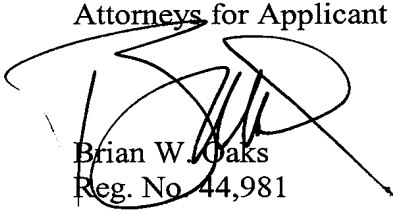
Finally, the limitations of independent Claims 15 and 20 are not addressed at all in the present Office Action. These claims include limitations clearly different than the limitations of Claim 1 (and different from each other), but have been rejected for the same reasons as provided for Claim 1. Applicant note that the limitations of these claims are clearly not disclosed in the cited references and that the Examiner has been unable to cite to any such disclosure in the series of Office Actions that have been received in this application. Furthermore, the Examiner has also not addressed or mentioned the limitations of Claims 16-19, which depend from Claim 15. Again, these limitations are clearly not disclosed in the cited references. Therefore, Applicant respectfully requests allowance of Claims 15-20. Furthermore, Claims 21-24 depend from independent Claim 20 and are also allowable at least for this reason.

CONCLUSION

As the rejection of Claims 1-11 and 13-24 contains clear deficiencies, Applicant respectfully requests a finding of allowance of Claims 1-11 and 13-24. If the PTO deems that an interview is appropriate, Applicant would appreciate the opportunity for such an interview. To the extent necessary, the Commissioner is hereby authorized to charge any required fees or credit any overpayments to Deposit Account No. 02-0384 of BAKER BOTTS L.L.P.

BAKER BOTTS L.L.P.

Attorneys for Applicant



Brian W. Oaks
Reg. No. 44,981

Date: June 30, 2006

Correspondence Address:

Customer Number: **05073**